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THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE PATENT OF
NEUER ET AL.

U.S. PATENT NO: 6,951,841B2

ISSUED: OCTOBER 4, 2005

FOR: PHARMACEUTICAL COMPOSITIONS OF MACROLIDES OR
CYCLOSPORINE WITH A POLYETHOXYLATED SATURATED
HYDROXY-FATTY ACID**MS: Petition**Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450COMMUNICATION RELATING TO THE DECISION
REGARDING THE FINAL PATENT TERM ADJUSTMENT

Sir:

This communication relates to the Decision rendered on February 1, 2007 regarding the "final" Patent Term Adjustment (PTA) concerning the subject U.S. patent.

On page 2, in the fourth complete paragraph, a credit of 334 days was assessed for a USPTO delay in responding to Applicants' response to the Board Decision of November 10, 2003. The basis for the assessment was 37 CFR 1.702(a)(2). Since there was nothing in 37 CFR 1.702(a)(2) which indicated that the USPTO was required to respond to the Applicant's response to a Board decision within 4 months of the response, and in accordance with Patentees duty of good faith and candor, a detailed voice mail message from Joseph Borovian was left with Examiner Nancy Johnson on February 19, 2007 to obtain clarification on this point.

In a voice mail message to Joseph Borovian that was left on February 20, 2007, Examiner Nancy Johnson indicated that although admittedly there was nothing explicit in 37 CFR 1.702(a)(2) which indicated that the USPTO was required to respond to the Applicant's response to a Board decision within 4 months of the response, it was the consensus opinion of those knowledgeable in PTA in the Office of Petitions that said requirement was implicit in 37 CFR 1.702(a)(2) and, therefore, encompassed thereby. In this connection Patentees thank

Examiner Nancy Johnson for her time and consideration and, especially, for her promptness in resolving the matter.

In view of the foregoing, Patentees are in agreement with the "revised" PTA of 141 days set forth in the Decision of February 1, 2007.

The Commissioner is hereby authorized to charge any fees under 37 CFR §1.17 which may be required, or credit any overpayment, to Account No. 19-0134 in the name of Novartis.

Respectfully submitted,

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Date: *28 February 2007*


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